

**TOWN OF LYNCHBURG MUNICIPAL COURT
LYNCHBURG, SOUTH CAROLINA**

**State Auditor's Report on Applying
Agreed-Upon Procedures
June 30, 2007**

**TOWN OF LYNCHBURG MUNICIPAL COURT
LYNCHBURG, SOUTH CAROLINA**

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State of South Carolina



Office of the State Auditor

1401 MAIN STREET, SUITE 1200
COLUMBIA, S.C. 29201

RICHARD H. GILBERT, JR., CPA
DEPUTY STATE AUDITOR

(803) 253-4160
FAX (803) 343-0723

December 14, 2007

The Honorable Mark Sanford, Governor
State of South Carolina
Columbia, South Carolina

The Honorable Jacquelyn McDonald, Clerk of Court
Town of Lynchburg
Lynchburg, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Lynchburg Municipal Court System for the period July 1, 2004 through June 30, 2007, was issued by Cline Brandt Kochenower & Co., P.A., Certified Public Accountants, under contract with the South Carolina Office of the State Auditor.

If you have any questions regarding this report, please let us know.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard H. Gilbert, Jr.", written in a cursive style.

Richard H. Gilbert, Jr., CPA
Deputy State Auditor

RHGjr/trb

Richard H. Gilbert, Jr., CPA
Deputy State Auditor
Office of the State Auditor
Columbia, South Carolina

We have performed the procedures described below which were agreed to by the South Carolina Office of the State Auditor solely to assist these users in evaluating the performance of the Town of Lynchburg Municipal Court System and to assist the South Carolina Office of the State Auditor in complying with the 2006 - 2007 General Appropriations Act (H. 4810) Section 72.80. Jacquelyn McDonald, Clerk of Court for the Town of Lynchburg, is responsible for compliance with the requirements for the Municipal Court reporting and the South Carolina Office of the State Auditor is responsible for compliance with the requirements of the 2006 - 2007 General Appropriations Act (H. 4810) Section 72.80. This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and associated findings are as follows:

1. TIMELY REPORTING BY THE CLERK OF COURT

- We researched South Carolina Code of Laws Section 14-25-85 to determine the definition of timely reporting with respect to the Clerk of Court's responsibility for reporting fines, fees and assessments to the Municipal Treasurer.
- We inquired of the South Carolina Judicial Department to determine their requirements for both the manner in which partial pay fines and fees are to be allocated and the timing of the report and remittance submissions by the Clerk and the Treasurer.
- We inquired of the Clerk of Court and Municipal Treasurer to gain an understanding of their policy for ensuring timely reporting and to determine how the treasurer specifically documents timeliness.
- We inspected documentation, including the Clerk of Court Remittance Forms or equivalents for the months of July 1, 2004 to June 30, 2007 to determine if the Clerk of Court submitted the reports to the municipal treasurer in accordance with the law.

Our finding is reported under "TIMELY REPORTING BY THE CLERK OF COURT" in the Accountants' Comments section of this report.

2. TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

- We traced each month's reporting by the Clerk of Court to the Municipal Treasurer's Office and to the Town's general ledger accounts for the assessments (Sections 14-1-208(A), (B) and (D)) and victim assistance surcharge (Section 14-1-211) for the period July 1, 2004 to June 30, 2007.
- We compared the amounts reported on the Clerk of Court Remittance Forms or equivalents to the Clerk of Court's software system-generated report summaries for three judgmentally determined test months. We tested the system-generated reports for compliance with various laws including Section 35.11 of the General Appropriations Act for the fiscal years 2005, 2006, and 2007 and with South Carolina Judicial Department training instructions and interpretations.
- We judgmentally selected and compared individual fine and assessment amounts recorded in the Clerk of Court's software system-generated detail reports to the Judicial Department guidelines range for the offense code to see if the fine and assessment were within the minimum and maximum range.

Our findings are reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN" in the Accountants' Comments section of this report.

3. PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

- We inquired as to the format determined by Town council and local policy for record keeping as it relates to fines and assessments in accordance with Section 14-1-208(E)(4).
- We compared the fiscal years ended June 30, 2004, 2005 and 2006 audited Victim Assistance Fund fund balance with all adjustments to the fund balance shown in the Schedule of Fines, Assessments and Surcharges of the audited financial statement on pages 24, 26 and 28 respectively and to the beginning fund balance as adjusted in that fund for fiscal years 2005, 2006 and 2007.
- We judgmentally selected a sample of Victim Assistance Fund reimbursable expenditures and verified that these expenditures were in compliance with Section 14-1-208(E) and Section 14-1-211(B).

Our findings are reported under "PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING" in the Accountants' Comments section of this report.

4. TIMELY ACCURATE REPORTING TO THE STATE TREASURER

- We vouched the amounts reported in the South Carolina State Treasurer's Revenue Remittance Forms to Clerk of Court Remittance Forms or equivalents for the period July 1, 2004 to June 30, 2007.
- We scanned the South Carolina State Treasurer's Revenue Remittance Forms for timely filing in accordance with Section 14-1-208(B).
- We traced amounts recorded in the Town's financial statement Schedule of Fines, Assessments and Surcharges on page 26 and 28 respectively, of the fiscal years ended June 30, 2005 and 2006 related to fines and assessments revenues reporting in accordance with Section 14-1-208(E) to supporting schedules used in the audits to comply with Section 14-1-208(E).
- We traced and agreed amounts in the supporting schedules to the Clerk of Court Remittance Forms or South Carolina State Treasurer's Revenue Remittance Forms.

Our findings are reported under "TIMELY ACCURATE REPORTING TO THE STATE TREASURER" in the Accountants' Comments section of this report.

We were not engaged to, and did not conduct an audit the objective of which would be the expression of an opinion on compliance with the collection and distribution of court generated revenue at any level of court for the thirty-six months ended June 30, 2007 and, furthermore, we were not engaged to express an opinion on the effectiveness of the internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. Had we performed additional procedures other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Governor, Chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Lynchburg Town Council, Town clerk of court, Town treasurer, State Treasurer, State Office of Victim Assistance, Chief Justice and the Office of the State Auditor and is not intended to be and should not be used by anyone other than these specified parties.



October 2, 2007

ACCOUNTANTS' COMMENTS

**TOWN OF LYNCHBURG MUNICIPAL COURT
LYNCHBURG, SOUTH CAROLINA**
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VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS

Management of the entity is responsible for establishing and maintaining internal controls to ensure compliance with State Laws, Rules or Regulations. The procedures agreed to by the entity require that we plan and perform the engagement to determine whether any violations of State Laws, Rules or Regulations occurred.

The conditions described in this section have been identified as violations of State Laws, Rules or Regulations.

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TIMELY REPORTING BY THE CLERK OF COURT

TRANSMITTAL OF FUNDS TO THE MUNICIPAL TREASURER

CONDITION: The Municipal Court Judge did not transmit court fines in accordance with the Judicial Department instructions using a docket.

CRITERIA: Judicial Department *Magistrate and Municipal Judges Bench Book* provides municipal judges guidance on compliance with South Carolina Code of Laws section 14-25-85. Section 14-25-85 requires that monies be remitted to the city treasurer forthwith. It is recommended that copies of the docket used by the court be transmitted with the receipts to provide for proper accounting of amounts deposited with the city treasurer."

CAUSE: Neither the Town nor the Judge maintain manual or electronic records of court proceedings (i.e., court dockets).

EFFECT: The Town and the judge cannot provide documentation demonstrating compliance with the Judicial Department guidelines.

AUDITORS' RECOMMENDATION: The Judge and Clerk should immediately implement a manual or electronic docket system to comply with the Judicial Department guidelines. Fines and assessments remitted to the Town Treasurer should be supported by documentation (i.e., court docket) identifying the specific case that it relates and the judge's disposition.

TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: The Municipal Court Judge did not adhere to the Judicial Department minimum/maximum fine guidelines pertaining to driving under suspension violations.

CRITERIA: Judicial Department Guidelines for Fines – Minimums and Maximums. These guidelines are obtained from the minimum and maximum fines recorded in the respective laws.

CAUSE: The Judge did not use the current Judicial Department's fine guidelines.

EFFECT: By not assessing the minimum fines as required in the legislation, the Town is violating the law.

AUDITORS' RECOMMENDATION: We recommend that the Judge comply with the Judicial Department fine guidelines.

MANUAL SYSTEM OMISSIONS

CONDITION: The Town does not properly account for Driving Under the Influence **[DUI]** assessments, DUI surcharges, Drug Surcharges, Driving Under Suspension **[DUS]** or DUI pullouts.

CRITERIA: The DUI Surcharge is governed by South Carolina Code of Laws Section 14-1-211(A)(2). Section 14-1-211(A)(2) states, "A one hundred dollar surcharge is imposed on all convictions pursuant to Section 56-5-2930"... which are convictions of "operating a motor vehicle while under influence of alcohol".

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- South Carolina Code of Laws Section 56-1-460(C) applies to DUS pullouts and states, "One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol."
- South Carolina Code of Laws Section 56-5-2940(1) relating to DUI pullout states, "...one hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol."
- South Carolina Code of Laws Sections 56-5-2995 pertains to DUI assessment. This section states, "additional assessment on persons convicted of driving under influence ...of twelve dollars must be added" and "remitted to the State Treasurer."
- Section 33.7 of the 2006-07 Appropriations Act (H. 4810) states "a one hundred dollar surcharge is also levied on all fines, ... imposed in ...municipal court for misdemeanor or felony drug offenses."

CAUSE: The Clerk of Court allocates the fines manually and manually allocates court fines to each account. The Clerk of Court has not received training in how to properly account for and allocate fines.

EFFECT: The Town has not reported collections in accordance with the law because the Clerk of Court has not allocated the collections to applicable pullouts, assessments and surcharges. In addition, the Town has improperly retained pullouts and surcharges and recorded them as fine revenue.

AUDITORS' RECOMMENDATION: The Town should design and implement procedures to ensure all collections are allocated and therefore reported on the State Treasurer's Revenue Remittance form in accordance with State law. The Town should calculate the amount due to the State and record a liability for prior year's collections that were not properly allocated. The Town should have their external auditor certify the liability in their next external audit.

MANUAL SYSTEM NONCOMPLIANCE

CONDITION: The Town does not maintain an accounting system that properly calculates and summarizes fines and assessments collected by the categories needed to properly account for court revenues in accordance with the law.

CRITERIA: Judicial Department *Magistrate and Municipal Judges Bench Book* provides guidance to municipal judges on compliance with South Carolina Code of Laws Section 14-25-85. Section 14-25-85 requires that monies be remitted to the city treasurer forthwith. It recommends that copies of the docket used by the court be transmitted with the receipts to provide for proper accounting of amounts deposited with the city treasurer."

CAUSE: The Town does not use an electronic accounting system to account for its court activity. Instead the software they purchased ceased to the treasurer uses a spreadsheet to allocate Law Enforcement Surcharges, State assessments and Victim Assistance assessments collections. The treasurer does not allocate collections to the other applicable categories.

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EFFECT: Revenue reported and accrued as payable to the State and Victim Assistance fund are based on approximations rather than allocations calculated in accordance with the various laws.

AUDITORS' RECOMMENDATION: The Town should design and implement procedures to ensure all collections are allocated and reported on the State Treasurer's Revenue Remittance form in accordance with State law. The Town should calculate the amount due to the State and record a liability for prior year's collections that were not properly allocated. The Town should have their external auditor certify the liability in their next external audit.

AMOUNTS COLLECTED NOT PROPERLY REPORTED

CONDITION: The treasurer uses the amount transferred from the municipal court bank account to the Town general fund bank account for reporting purposes. This amount transferred bears no relationship to court fine and assessment receipts.

CRITERIA: South Carolina Code of Laws Sections 14-1-208 (A) states "This assessment must be paid" in order for any liability to inure to the State. In addition, the instructions for the State Treasurer's Revenue Remittance Form state "Reports are due no later than 5:00pm on the 15th of the month following collection." It is clear from the instructions that collections create a liability.

CAUSE: The Town does not properly account for court fine and assessment receipts. It does not maintain software to analyze collections and has no manual system that provides information relating to individual fine or assessment receipts.

EFFECT: The Town treasurer reports the amount transferred to the general fund bank account rather than the amount deposited into the court account. The amount deposited into the court account is almost entirely collections of fines. However, the amount transferred to the general fund bank account is generally based on budgetary requirements.

AUDITORS' RECOMMENDATION: The Town should develop and implement procedures to ensure all court collections are reported on the State Treasurer's Revenue Remittance form in accordance with State law.

PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

IMPROPER USE OF VICTIM ASSISTANCE FUNDS

CONDITION: The Town routinely borrows Victim Assistance funds for operating expenditures.

CRITERIA: South Carolina Code of Laws Sections 14-1-208(D) and 14-1-211(B) states respectively regarding the Victim Assistance revenue purpose "...must be used for the provision of services for the victims of crime including those required by law." and "providing services for the victims of crime, including those required by law."

CAUSE: The Town had cash flow problems.

EFFECT: The Town may be violating State law because it is not using the funds for the intended purpose and it does not appear that the Town has repaid the loans.

AUDITORS' RECOMMENDATION: The Town should stop borrowing the Victim Assistance fund money. The Town should repay the fund the amounts owed it and reimburse the fund for bank service charges that have resulted from the Victim Assistance bank balance being drawn down.

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LACK OF PRIOR VICTIM ASSISTANCE FUND ACCOUNTING

CONDITION: The Town is not keeping accurate records with respect to victim assistance revenues.

CRITERIA: South Carolina Code of Laws Section 14-1-208(E)(4) states "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection...."

CAUSE: The Town had outsourced its accounting functions during the procedures period.

EFFECT: The Town is not properly accounting for Victim Assistance. The Town cannot provide an accurate accounting of the victim assistance activity.

AUDITORS' RECOMMENDATION: The Town should reconstruct its records, if possible, to determine how much money is due to Victim Assistance. Amounts related to collections not properly allocated to Victim Assistance should be deposited into Victim Assistance accounts. The Town should ensure accounting records are kept prospectively.

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

TIMELY FILING

CONDITION: Seventeen of the thirty-six State Treasurer's Remittance Reports for the procedures period July 1, 2004 to June 30, 2007 were not filed. The remainder were not filed timely. The delinquent reports were submitted four to fourteen months late.

CRITERIA: South Carolina Code of Laws Sections 14-1-208 (B) states "The Town treasurer must remit ... on a monthly basis by the fifteenth day of each month...."

CAUSE: The Town has cash flow problems and is borrowing court revenue to meet operational needs.

EFFECT: The Town is not complying with the State law.

AUDITORS' RECOMMENDATION: The Town should develop and implement a policy to ensure compliance with State law.

ACCURACY IN FILED REMITTANCE REPORTS

CONDITION: Because of the errors and omissions described in the preceding findings, the Revenue Remittance forms that were submitted during the procedures period were not accurate. In some cases, amounts reported did not agree with support documentation (Treasurer's spreadsheet).

CRITERIA: South Carolina Code of Laws Section 14-1-208(B) states the Town Treasurer must "remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner proscribed by the State Treasurer."

CAUSE: The Town allocates the fines manually and lacks training on how to properly complete the monthly remittance forms.

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EFFECT: The Town reported inaccurate and incomplete information to the State during the thirty-six month procedures period.

AUDITORS' RECOMMENDATION: The Town should ensure that the town treasurer receives training on how to properly complete the Revenue Remittance forms. The Town should determine the cumulative effect of the errors submit amended Revenue Remittance forms to the State Treasurer's Office. Finally the Town should remit as funds do to the State as soon as practicable.

REQUIRED SUPPLEMENTAL SCHEDULE OF FINES AND ASSESSMENT

CONDITION: The Supplementary Schedule of Fines and Assessments submitted to the State did not include all required information. We determined that the supplementary schedule did not report fines or assessments collected and either remitted or retained as separate data. The Schedule did not include victim assistance expenses. In addition, total victim assistance revenue was not included and no fund balance or carry forward balance for the victim assistance fund was reported.

CRITERIA: South Carolina Code of Laws Section 14-1-206(E)(1) states "the supplementary schedule must include the following elements:

- (a) all fines collected by the clerk of court for the municipal court;
- (b) all assessments collected by the clerk of court for the municipal court;
- (c) the amount of fines retained by the municipal treasurer;
- (d) the amount of assessments retained by the municipal treasurer;
- (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and
- (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward."

CAUSE: The Town did not review the schedule before submission to ensure it included all required information.

EFFECT: The Supplementary Schedule of Fines and Assessments did not comply with South Carolina Code of Laws Section 14-1-208(E)(1)(b) and (f).

AUDITORS' RECOMMENDATION: In the future the Town should review the schedule before submission to ensure it is accurate and includes all of the elements required by Section 14-1-208(E)(1) of the South Carolina Code of Laws, as amended.

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SECTION B – OTHER WEAKNESSES

The conditions described in this section have been identified while performing the agreed-upon procedures but are not considered violations of State Laws, Rules or Regulations.

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TIMELY REPORTING BY THE CLERK OF COURT

TRANSMITTAL SUPPORT

CONDITION: The Town does not maintain a cohesive written record of adjudicated cases that can be easily traced to amounts collected. Amounts collected could not be easily traced to specific bank deposits or receipt documents.

CRITERIA: The Committee of Sponsoring Organizations (COSO) Internal Control Framework report. South Carolina Judicial Department procedures.

CAUSE: The Town has not implemented new procedures since the court software they purchased quit operating properly.

EFFECT: No audit trail exists to easily track the cases from point of origination (i.e., to adjudication,) the officer who wrote the ticket, collection of fine, to collection of the fine, to deposit of the cash receipt.

AUDITORS' RECOMMENDATION: The Town should immediately implement procedures to ensure proper accountability of court fines and assessments.

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

AUDIT REPORTS

CONDITION: The Town's fiscal year 2005 and 2006 audit reports contained several court related findings that have repeated in the fiscal year 2007 report.

CRITERIA: South Carolina Code of Laws Section 5-7-240 requires an annual audit. South Carolina Code of Laws Section 14-1-208(E) requires court fines and the system of procedures set in place to safeguard State revenues be audited.

CAUSE: The Town has not implemented procedures to correct any of the findings listed in the audited financial statements.

EFFECT: The Town was clearly aware of the findings and has allowed the findings to continue without taking corrective action.

AUDITORS' RECOMMENDATION: The Town should immediately implement procedures to correct the findings and adhere to State laws. Management and Town Council should use the audits as a tool to correct deficiencies and allow them to be better stewards of the Towns resources.



MAYOR
Thompson Isaac

TOWN OF LYNCHBURG

P.O. BOX 147 LYNCHBURG, S.C. 29080

(803) 437-2933

Fax (803) 437-2949

December 10, 2007

Mr. Richard H. Gilbert, Jr., CPA
Deputy State Auditor
Office of the State Auditor
Columbia, SC

State Auditor's Report Response

MEMBERS OF COUNCIL

Marian McClam
Nancy Galloway
Robert M. Morrell Sr.
Timothy Wilson

Mr. Gilbert:

We are in receipt of Cline Brandt Kochenower & Co., audit report for the Town of Lynchburg. We recognize and agree with their findings.

Two key things that we must point out are that the Town of Lynchburg does not have a Clerk of Court or a Town Treasurer. Ms. Jacquelyn McDonald is the Assistant Town Clerk. She does assist the Judge with some of the court duties when she is available. The Town Clerk also assisted the Judge and Ms. McDonald with some court duties. The Town Clerk filled in the remittance forms for the State.

We accept their recommendations and will work on them. Listed below are some of the corrected actions we plan to take immediately:

- 1.) Our Judge will use a Court Docket with ticket numbers and fine amounts for reporting to the State in a timely manner.
- 2.) We will attempt to hire a qualified Clerk of Court
- 3.) We will attempt to acquire the proper software for the court system.
- 4.) If the aforementioned attempts fail, we will approach Lee County Magistrate Office to take over our court system. We understand that they do have the proper software for reporting.

If you should have any questions, please call.

Sincerely,

Thompson Isaac
Mayor